

Collateral Inheritance Tax.

1904, art. 81, sec. 117. 1888, art. 81, sec. 102. 1860, art. 81, sec. 124. 1844, ch. 237, sec. 1. 1864, ch. 200. 1874, ch. 483, sec. 113. 1880, ch. 444. 1908, ch. 695.

120. All estates, real, personal and mixed, money, public and private securities for money of every kind passing from any person who may die seized and possessed thereof, being in this State, or any part of such estate or estates, money or securities, or interest therein, transferred by deed, will, grant, bargain, gift or sale, made or intended to take effect in possession after the death of the grantor, bargainor, deviser or donor, to any person or persons, bodies politic or corporate, in trust or otherwise, other than to or for the use of the father, mother, husband, wife, children and lineal descendants of the grantor, bargainor or testator, donor or intestate, shall be subject to a tax of five per centum in every hundred dollars of the clear value of such estate, money or securities; and all executors and administrators shall only be discharged from liability for the amount of such tax, the payment of which they be charged with, by paying the same for the use of this State, as hereinafter directed; provided, that no estate which may be valued at a less sum than five hundred dollars shall be subject to the tax imposed by this section.

The purport of this section is that collateral kindred should pay a certain premium for the privilege of acquiring a decedent's property which is subject to the laws of Maryland; the tax is, therefore, not upon the property itself. The words "being in this state" refer to the property and not to the person. When property is "in this state" within the meaning of this section. Broad application of this section. *State v. Dalrymple*, 70 Md. 298; *Fisher v. State*, 106 Md. 119.

This section is constitutional and valid. *Tyson v. State*, 28 Md. 578; *State v. Dalrymple*, 70 Md. 298; *Fisher v. State*, 106 Md. 119.

The collateral inheritance tax is upon the value of the property not at the time of the testator's death, but at the time it is transferred to the beneficiary. Interest. *Fisher v. State*, 106 Md. 117.

Property over which a power of appointment may be exercised by the will of the donee of the power, is not liable for the collateral inheritance tax as if it were the property of the donee. *Prince de Bearn v. Winans*, 111 Md. 472.

If the executor pays over money to a legatee without deducting the tax required by this section, the state may sue such legatee for money "had and received." The act of 1880, ch. 444, held valid and applicable. *Montague v. State*, 54 Md. 483; *Fisher v. State*, 106 Md. 120.

Where a will probated in Indiana bequeaths certain stock of a bank in Baltimore city to the executor to pay the sum mentioned in a certain contract, and before the appointment of an administrator in Maryland, the bank pays the value of a portion of the stock to the foreign executor, no collateral inheritance tax thereon is payable in Maryland. *Citizens' Bank v. Sharp*, 53 Md. 531. Cf. *State v. Dalrymple*, 70 Md. 302.

This and the following sections held to apply to a bequest of freedom to a slave. *State v. Dorsey*, 6 Gill, 389.

See sec. 134 and notes to sec. 133.

Ibid. sec. 118. 1888, art. 81, sec. 103. 1860, art. 81, sec. 125. 1844, ch. 237, sec. 2. 1864, ch. 200. 1874, ch. 483, sec. 114. 1908, ch. 695.

121. Every executor or administrator, to whom administration may be granted, before he pays any legacy, or distributes the shares of any estate liable to the tax imposed by the preceding section, shall pay to